

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Charles Newby

Docket No. 5:08-CR-252-1FL

Petition for Action on Supervised Release

COMES NOW Matthew A. Fmura, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Charles Newby, who, upon an earlier plea of guilty to Conspiracy to Distribute 50 Grams or More of Cocaine Base (Crack), in violation of 21 U.S.C. §§ 841(a)(1) and 846, was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, on April 1, 2009, to the custody of the Bureau of Prisons for a term of 172 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 5 years. On February 11, 2014, the defendant's sentence was reduced to 138 months. On February 6, 2015, the defendant's sentence was reduced to 120 months. Charles Newby was released from custody on June 1, 2017, at which time the term of supervised release commenced.

On August 3, 2021, the defendant's case was reassigned to the Honorable Louise W. Flanagan, U.S. District Judge.

On August 5, 2021, a Violation Report was submitted advising the court of admitted marijuana use. Newby was moved from the Low Intensity Supervision Program (LISP) back to regular supervision and was referred for a substance abuse assessment.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On October 28, 2021, the defendant committed the offenses of Driving While Impaired, Reckless Driving – Wanton Disregard, Fictitious/Altered Title/Registration Card/Tag, and Driving While License Revoked – Impaired Revocation in Wilson County, North Carolina (21CR53554 and 21CR705647). These matters remain pending in Wilson County District Court. Newby also failed to notify the U.S. Probation Office of the arrest within the required time period. When confronted by the probation officer, the defendant admitted culpability and accepted responsibility for his actions. Newby stated he was drinking alcohol at a gathering, then was coaxed into driving a girlfriend back to his residence. The defendant is currently enrolled in Straight Walk Family Services in Rocky Mount, North Carolina, for substance abuse treatment and recommended counseling. To sanction the defendant, and adequately monitor treatment requirements, it is respectfully recommended that Newby be placed on a curfew with Location Monitoring: Radio Frequency monitoring for a period of 60 days. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall adhere to a curfew as directed by the probation officer for a period not to exceed 60 consecutive days. The defendant is restricted to his residence during the curfew hours. The defendant shall submit to the following Location Monitoring: Radio Frequency monitoring and abide by all program requirements, instructions and procedures provided by the supervising officer.

Except as herein modified, the judgment shall remain in full force and effect.

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Reviewed and approved,

I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Dewayne L. Smith
Dewayne L. Smith
Supervising U.S. Probation Officer

/s/ Matthew A. Fmura
Matthew A. Fmura
U.S. Probation Officer
150 Reade Circle
Greenville, NC 27858-1137
Phone: 252-830-2345
Executed On: November 22, 2021

ORDER OF THE COURT

Considered and ordered this 23rd day of November, 2021, and ordered filed and made a part of the records in the above case.



Louise W. Flanagan
U.S. District Judge